THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.13820 of 2002

Dated:30.08.2007

Between:

Kancharla Keshava Umameshwara Rao,
and another.

…Petitioners

and

The District Collector,
Visakhapatnam,
and others.

…Respondents

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WRIT PETITION No.13820 of 2002

ORDER:

The two petitioners filed the instant Writ Petition seeking a writ of mandamus declaring the action of the respondents in interfering with their possession in respect of the land admeasuring 1100 square yards in T.S.No.125 situated Pedawaltair Ward, Visakhapatnam, as illegal and arbitrary, and for a consequential injunction against them.

It is the case of the petitioners that they purchased an extent of 500 and 600 square yards respectively in T.S.No.125 under two separate sale deeds dated 25.09.1989 and 30.09.1989 from one T.Subbi Reddy. They also allege that their vendor obtained necessary permission under Section 26(2) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act'), before transferring the land in their favour. Be that as it is, according to the petitioners, on 26.07.2002, the third respondent informed them that the land has now been allotted to the fourth and fifth respondents, namely, Commissioner of Police, Visakhapatnam, and the Chairman and Managing Director, S.C.Corporation, Visakhapatnam, and the petitioners were asked to vacate the land. Therefore, they filed the instant Writ Petition.

Though the Writ Petition was admitted on 31.07.2002, no counter affidavit is filed by any of the respondents. Be that as it is, the petitioners have annexed the Xerox copies, under which they purchased the property from Subbi Reddy, but they have not placed before this Court the copies of the proceedings of the second respondent under Section 26(2) of the Act, dated 23.08.1989, under which permission was allegedly granted. Therefore, in the absence of such proceedings, this Court cannot validate the sales in favour of the petitioners. Secondly, there cannot be any dispute that if the petitioners are in possession, they cannot be dispossessed by the respondents without giving notice to them. Therefore, this Court observes that whether or not the sale in favour of the petitioners was preceded by necessary permission under Section 26(2) of the Act, the respondents shall not dispossess the petitioners from their land, if they are still in possession of the same.

The Writ Petition, with the above observations, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

30.08.2007
vs